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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Sadelain et al.

Application No.: 09/786,502

Filed: 5/18/2001

Title: Fusion Receptors Specific for Prostate  
Specific Membrane Antigen and Uses thereof

Attorney Docket No.: MSK.P-040

Group Art Unit: 1642

Examiner: A. Holleran

Assistant Commissioner for Patents

Washington, D.C. 20231

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RESPONSE TO RESTRICTION REQUIREMENT

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Dear Sir:

In response to the Restriction Requirement mailed October 1, 2002 for the above-captioned application, Applicants hereby elect the claims of Group I, Claims 1-6 and claims 17-20, **with traverse**.

The Examiner has stated that the claims of groups I and II do not share a common technical feature, and thus lack unity of invention. Applicants respectfully submit that the assertion of lack of unity is in error. If one looks at the description of the two groups of claims, the common technical feature is clear, i.e., "a fusion protein comprising a scFV that binds PSMA, where the scFV is linked to a cytoplasmic domain of a molecule that functions as a transducer of a mammalian immune response in the presence of a costimulatory factor." The Examiner has used this same language in the description of the technical feature of both groups of claims, but

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I hereby certify that this paper and any attachments named herein are being deposited with the US Postal Service as first-class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on October 29, 2002.

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October 29, 2002  
Date of Signature

says they are different inventions, lacking unity, because one group relates to the fusion protein per se, while the other group is directed to expression vectors encoding the fusion protein, host cells and methods of using the expression vector.

Applicants respectfully direct the Examiner's attention to Example 17 in the PCT Administrative Instructions, Annex B, a copy of which is attached for the Examiner's convenient reference. As indicated, unity of invention exists between a protein and a DNA sequence encoding that protein. Further, unity of invention exists between a composition and one method of using it. (37 CFR § 1.475(b)(2)). Finally, there is no reasons to separate an expression vector and cells containing that expression vector since patentability of the cells follows from patentability of the expression vector.

Accordingly, Applicants submit that unity of invention exists, and that all claims should be considered in a single application.

Respectfully submitted,



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## § II. CLAIMS IN THE SAME CATEGORY - ADMINISTRATIVE INSTRUCTIONS UNDER THE PCT

### § II. CLAIMS IN THE SAME CATEGORY

#### Example 8

Claim 1 Plug characterized by feature A.

Claim 2 Socket characterized by corresponding feature A.

Feature A is a special technical feature which is included in both claims 1 and 2 and therefore unity is present.

#### Example 9

Claim 1 Transmitter provided with time axis expander for video signals.

Claim 2 Receiver provided with time axis compressor for video signals received.

Claim 3 Transmission equipment for video signals comprising a transmitter provided with time axis expander for video signals and a receiver provided with time axis compressor for video signals received.

The special technical features are in claim 1 the time axis expander, and in claim 2 the time axis compressor, which are corresponding technical features. Unity exists between claims 1

and 2. Claim 3 includes both special technical features and has unity with claims 1 and 2. The requirement for unity would still be met in the absence of the combination claim (claim 3).

### **Example 10**

Claim 1 Conveyor belt with feature A.

Claim 2 Conveyor belt with feature B.

Claim 3 Conveyor belt with features A + B.

Feature A is a special technical feature and feature B is another unrelated special technical feature. Unity exists between claims 1 and 3 or between claims 2 and 3, but not between claims 1 and 2.

### **Example 11**

Claim 1 Control circuit A for a d.c. motor.

Claim 2 Control circuit B for a d.c. motor.

Claim 3 An apparatus including a d.c. motor with control circuit A.

Claim 4 An apparatus including a d.c. motor with control circuit B.

Control circuit A is a special technical feature and control circuit B is another unrelated special technical feature. Unity exists between claims 1 and 3 or between claims 2 and 4, but not between claims 1 and 2 or 3 and 4.

### **Example 12**

Claim 1 A display with features A + B.

Claim 2 A display according to claim 1 with additional feature C.

Claim 3 A display with features A + B with additional feature D.

Unity exists between claims 1, 2, and 3. The special technical feature common to all the claims is features A + B.

### **Example 13**

Claim 1 Filament A for a lamp.

Claim 2 Lamp B having filament A.

Claim 3 Searchlight provided with lamp B having filament A and a swivel arrangement C.

Unity exists between claims 1, 2, and 3. The special technical feature common to all the claims is the filament A.

#### **Example 14**

Claim 1 A marking device for marking animals, comprising a disc-shaped element with a stem extending normally therefrom, the tip of which is designed to be driven through the skin of the animal to be marked, and a securing disk element to be fastened to the protruding tip of the stem on the other side of skin.

Claim 2 An apparatus for applying the marking device of claim 1, constructed as a pneumatically actuated gun for driving the stem of the disc-shaped element through the skin, and provided with a supporting surface adapted for taking up a securing disc element, to be placed at the other side of the body portion in question of the animal to be marked.

The special technical feature in claim 1 is the marking device having a disc-shaped element with a stem and a securing disc element to be fastened to the tip of the stem. The corresponding special technical feature in claim 2 is the pneumatically actuated gun for driving the marking device and having a supporting surface for the securing disc element. Unity exists between claims 1 and 2.

#### **Example 15**

Claim 1 Compound A.

Claim 2 An insecticide composition comprising compound A and a carrier.

Unity exists between claims 1 and 2. The special technical feature common to all the claims is compound A.

#### **Example 16**

Claim 1 An insecticide composition comprising compound A (consisting of a 1, a 2...) and a carrier.

Claim 2 Compound a<sub>1</sub>.

All compounds A are not claimed in the product claim 2 for reasons of lack of novelty of some of them for instance. There is nevertheless still unity between the subject matter of claims 1 and 2 provided a 1 has the insecticidal activity which is also the special technical feature for compound A in claim 1.

## **Example 17**

Claim 1 Protein X

Claim 2 DNA sequence encoding protein X.

Expression of the DNA sequence in a host results in the production of a protein which is determined by the DNA sequence. The protein and the DNA sequence exhibit corresponding special technical features. Unity between claims 1 and 2 is accepted.

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